



# UNITED STATES PATENT AND TRADEMARK OFFICE

104

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/937,381	04/25/2002	Didier Chomier	022701-954	9708
21839	7590	04/20/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			NOLAN, SANDRA M	
POST OFFICE BOX 1404			ART UNIT	
ALEXANDRIA, VA- 22313-1404			PAPER NUMBER	

1772

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/937,381	<b>Applicant(s)</b> CHOMIER ET AL.	
	<b>Examiner</b> Sandra M. Nolan	<b>Art Unit</b> 1772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-10, 12-15, 18 and 20-24 is/are rejected.
- 7) ☒ Claim(s) 3, 11, 16, 17 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claims***

1. Claims 1-24 are pending.

### ***Rejections Withdrawn***

2. The 35 USC 112 rejection of claims 2-3 and 5 as indefinite, as stated in section 6 of the 22 October 2003 (10-22-03) office action, is withdrawn in view of applicants' amendments in the response dated 22 January 2004 (1-22-04).
3. The 35 USC 112 rejection of claim 17 as indefinite, as set forth in section 7 of the 10-22-03 office action, is withdrawn in view of applicants' amendments in the 1-22-04 response.
4. The 35 USC 102 rejection of claims 1, 4, 6-10, 13-15, 18 and 22 as anticipated by Goldbach et al (US 5,190,803), as stated in section 10 of the 10-22-03 office action, is withdrawn in view of applicants arguments on pages 10 through 11 of the 1-22-04 response.
5. The 35 USC 103 rejection of claims 16-17 and 19 as unpatentable over Goldbach, presented in section 13 of the 10-22-03 office action, is withdrawn in view of applicants arguments on pages 10 through 11 of the 1-22-04 response.
6. The 35 USC 103 rejection of claim 11 as obvious over the combination of Jackson and Goldbach, as set out in section 14 of the 10-22-03 office action, is withdrawn in view of applicants arguments on pages 10 through 11 of the 1-22-04 response.

7. The 35 USC 103 rejection of claims 16-17 and 19, as obvious over Jackson, as expressed in section 12 of the 10-2-03 office action, is withdrawn after reconsideration of all of the features recited in these claims.

***Rejection Maintained***

8. The 35 USC 102 rejection of claims 1-2, 4-5, 7, 9-10, 12, 15, 18 and 20-24 over Jackson et al (US 5,456,957), as set out in section 9 of the 10-22-03 office action, is maintained for reasons of record.

***Allowable Subject Matter***

9. Claims 3, 11, 16, 17 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art of record fails to teach or suggest articles having all of the features recited in these claims.

***Response to Arguments***

10. Applicant's arguments filed on 22 January 2004 have been fully considered but they are not persuasive.

The arguments presented on 22 January 2004 will be responded to in the order in which they were presented. Arguments concerning withdrawn rejections will not be discussed.

On page 8 of the 1-22-04 response, applicants argue that the 102 rejection over Jackson is improper because it does not anticipate each and every feature recited in claim 1, notably that it does not anticipate the feature: "at least one part made of

Art Unit: 1772

thermoplastic material associated with the rigid element and positioned in the concave space of the rigid element”.

However, as Jackson states at col. 3, lines 67 through col. 4, lines 5, a decorative outer layer **22** may be bonded to the show surface **20**, which outer layer **22** can be thermoplastically coated metallized polyester. The coated, metallized outer layer **22** is more rigid than the show surface, so that the show surface **20** is a “thermoplastic material associated with the rigid element and positioned in the concave space of the rigid element”.

On pages 9 and 10, applicants argue that claims 20, 21, 23 and 24 are not anticipated because Jackson does not show the molding steps recited therein.

However, at col. 5, lines 3-16, Jackson teaches that its show surface may be placed inside an injector and other materials molded onto it. Since the show surface contains the rigid member 18 (col. 3, lines 46-56), this preformed rigid thermoplastic element is present when the injection molding occurs and claims 20, 21, 23 and 24 are anticipated.

Note that 35 USC 102 requires that every limitation must be either stated or inherent in the cited reference. In this instance, the language of claims 20, 21, 23 and 24 is not recited in Jackson, but the operation of its processes inherently anticipates these claims.

In sum, the 35 USC 102 rejection over Jackson is proper and is maintained. All other grounds of rejection in the 10-22-03 office action have been withdrawn.

***Final Rejection***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Conclusion***

Any inquiry concerning this communication should be directed to Sandra M. Nolan, whose telephone number is 571/272-1495. She can normally be reached on Monday through Thursday, from 6:30 am to 4:00 pm, Eastern Time. If attempts to reach the examiner are unsuccessful, her supervisor, Harold Pyon, can be reached at 571/272-1498. The fax number for patent application documents is 703/872-9306.



S. M. Nolan  
Primary Examiner  
Technology Center 1700

SMN/smn  
09937381(20040416)